

October 7, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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Seattle, Washington 98104
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DECISION ON CONDITIONAL USE APPLICATION.

SUBJECT: Department of Development and Environmental Services File No. L96AC006

NORTHWEST PIPELINE/ONE COMMUNICATION CORPORATION
Conditional Use Permit Application

Location: Property located 600 feet south of Redmond-Fall City Road, just east of 228th Avenue NE

Applicant: Cydly Smith and/or Cynthia Berne
D. Garvey Corporation, for
Northwest Pipeline and One Comm. Corp.
5808 Lake Washington Blvd., #400
Kirkland, WA 98033

Represented by:
David Hall, Attorney At Law
1920 East Calhoun
Seattle, WA 98112

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application submitted:	July 22, 1996
Notice of appeal received by Examiner:	September 6, 1996
Department Preliminary Report issued:	September 20, 1996

EXAMINER PROCEEDINGS:

Hearing Opened:	9:17 a.m., Thursday, October 3, 1996
Hearing Closed:	10:00 a.m., Thursday, October 3, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Conditional use permits: cellular telephone facilities

➤ Notice: amendments to proposal

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant: Cydly Smith and/or Cynthia Berne
D. Garvey Corporation, for
Northwest Pipeline and One Comm. Corp.
5808 Lake Washington Blvd., #400
Kirkland, WA 98033
Phone: 216-3318

STR: NW 22-25-06

Location: Property located 600 feet south of Redmond-Fall City Road, just east of 228th Avenue NE; Parcel No. 222506-9027

Request: P-suffix amendment removing the limita-tion to pipeline utility use and CUP for construction of a 120-foot monopole tower with antennae extending height to 133 feet; and an 11-foot by 20-foot equipment building and an 8-foot by 10-foot equipment building.

Proposal: P-suffix amendment and Conditional Use Permit

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's Preliminary Report to the Hearing Examiner for the October 3, 1996 public hearing are found to be correct and are incorporated herein by reference.
3. On May 1, 1996 One Communication Corp. filed an application for a Conditional Use Permit for the construction of two small equipment buildings and a 120-foot monopole tower mounted with three omni-directional whip antennas extending to a total height of 133 feet. The antenna system is intended to provide low frequency radio transmissions to serve a cell within the Applicant's cellular telephone network. The approximately three acre site is presently occupied by dispatch and communication facilities for the Northwest Pipeline Corporation, an equipment maintenance shop and a storage yard. The microwave dish used by Northwest Pipeline for radio dispatch service will be co-located onto the monopole. This dish is currently mounted on a lattice tower owned by the Lake Washington School District and sited directly north of the Applicant's property.
4. The Northwest Pipeline property is subject to a P-suffix condition adopted as development condition No. 9 within the 1993 update to the East Sammamish Community Plan. This condition implements Community Plan Policy CI-13 and provides that "any redevelopment of this site shall be limited to pipeline utility and/or school bus base uses." An interpretive opinion issued by DDES's Regulatory Review Committee during the pre-application process concluded that the proposed monopole conflicted with the P-suffix condition and would require its amendment. No appeal of this preliminary determination was made under Section 10.B of Ordinance No. 12196. Accordingly, Northwest Pipeline Corporation applied for a rezone on July 22, 1996 to delete from the P-suffix condition the word "pipeline" as a limiting modifier to permitted utility use of the property.
5. The original proposal submitted by the Applicant's representative envisioned removal of the 75-foot lattice tower on the School District property. On September 30, 1996 the Applicant notified the County that the School District will not be removing the tower structure. Although removal of the tower was referenced in the hearing notices for the rezone and Conditional Use Permit applications, this change in the proposal does not invalidate such notice provisions because removal of the 75-foot tower on the School District parcel is an action auxiliary to the instant proceeding and does not require King County approval. It was therefore not an essential component of the public notice requirement.

6. The proposed monopole and antenna system constitutes a minor communication facility regulated under KCC 21A.26. As such, it requires the issuance of a Conditional Use Permit pursuant to Chapter 21A.44. Due to its isolated location on an industrial property removed and buffered from residential uses, the proposed monopole facility does not raise issues of incompatibility with surrounding uses. The engineering report for the antenna system has been reviewed by the Seattle-King County Department of Public Health and demonstrates that the facility will have inconsequential radiation impacts. As an unmanned facility it will create no new traffic impacts. Adequate electric service is already provided to the site, and no other public facilities or services will be required. The locational and landscaping requirements of Chapter 21A.26 will be met by the proposal.

CONCLUSIONS:

The proposal meets applicable standards contained within KCC 21A.26 for the siting of minor communication facilities and is consistent with the requirements of KCC 21A.44.040 governing the issuance of a Conditional Use Permit.

DECISION:

The Conditional Use Permit application is APPROVED, subject to the following conditions:

1. Development shall be generally in accordance with the site development plan (submitted August 7, 1996) regarding location and configuration of the proposed tower and associated development; and development shall conform to the stated proposal as described within this report unless modified through conditions of this approval.
2. The landscape plan shall be revised to comply with the landscape screening requirements of the Code by providing wooden slats in the perimeter fencing.
3. A watering plan or installed watering system shall be included with the permit for construction to assure the long-term availability of water for landscaping.
4. The Applicant shall obtain all necessary building permits and comply with all building, fire, and other applicable codes for construction of the tower and associated facilities on the subject property.
5. This land use approval action for a Conditional Use Permit shall become null and void if not exercised by obtaining building permits within four years from the transmittal date of this order.

ORDERED this 7th day of October, 1996.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 7th day of October, 1996, to the following parties and interested persons:

Cynthia Berne, D. Garvey Corp.
Robert Colland, Lake Washington School District
Rex Johnson, Northwest Pipeline Corp.
Cydy Smith, D. Garvey Corp./One Communication Corp.
David Hall, Attorney At Law

Curt Horner, Seattle-King County Health Department
Aileen McManus, DDES/LUSD, Site Engineering & Planning
Lisa Pringle, DDES/LUSD, Site Plan Review Section
Karen Scharer, DDES/LUSD, Site Plan Review Section

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding Conditional Use Permit Applications. The Examiner's decision shall be final and conclusive unless within 20 days from the date of the decision an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the decision.

MINUTES OF THE OCTOBER 3, 1996 PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NOS. L96RZ003/
L96AC006: NORTHWEST PIPELINE/ONE COMMUNICATION CORP:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were David Hall and Karen Scharer.

The following exhibits were offered and entered into the record:

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| Exhibit No. 1 | Application for P-Suffix Amendment - L96RZ003, submitted July 22, 1996
(logged in Department of Development and Environmental Services, Land
Use Services Division, File No. L96RZ003 as 'F' exhibits) |
| Exhibit No. 2 | Application for Conditional Use Permit - L96AC006, submitted May 1, 1996
(logged in Department of Development and Environmental Services, Land
Use Services Division, File No. L96AC006 as 'D' exhibits) |
| Exhibit No. 3 | SEPA checklist revised and received July 22, 1996 |
| Exhibit No. 4 | Notice of application, notice of SEPA threshold determination, and notice of
hearing, mailed August 16, 1996 |
| Exhibit No. 5 | SEPA Threshold Determination, dated August 20, 1996 |
| Exhibit No. 6 | Notice of Recommendation, mailed September 17, 1996 |
| Exhibit No. 7 | LUSD Preliminary Report to the Hearing Examiner, prepared for the
October 3, 1996 public hearing |
| Exhibit No. 8 | 4 Assessor Maps, taped together - STR: NW 22-25-06, SW 15-25-06,
SE 16-25-06, and NE 21-25-06 |
| Exhibit No. 9 | Development Plan - revised August 7, 1996 |
| Exhibit No. 10 | Memorandum from Cynthia Berne/D. Garvey Corp, dated September 30,
1996, revising the project |
| Exhibit No. 11 | Letter, dated July 1, 1996, from Curt Horner, Seattle-King County
Department of Public Health/Environmental Health Division, dated received
July 8, 1996 |

SLS:var/gb
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